

ESTTA Tracking number: **ESTTA343423**

Filing date: **04/21/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91188903
Party	Plaintiff Apple Inc.
Correspondence Address	Joseph Petersen Kilpatrick Stockton LLP 31 West 52nd Street - 14th Floor New York, NY 10019 UNITED STATES migraham@kilpatrickstockton.com, nytrademarks@kilstock.com, agarcia@kilpatrickstockton.com
Submission	Reply in Support of Motion
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Signature	/Alicia Grahm Jones/
Date	04/21/2010
Attachments	10--4-21-Apple-v-Fabasoft- Reply to Motion to Compel.pdf (3 pages)(12904 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No. 77/460,315

For the mark: APPLSTRUDL

Filed: April 29, 2008

Published: December 16, 2008

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APPLE INC.,	:	
	:	
Opposer,	:	
	:	
	:	Opposition No. 91188903
v.	:	
	:	
FABASOFT AG,	:	
	:	
Applicant.	:	
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**OPPOSER’S REPLY IN SUPOPT OF ITS MOTION FOR AN ORDER DEEMING
ITS REQUESTS FOR ADMISSION ADMITTED, TO COMPEL RESPONSES
TO ITS INTERROGATORIES AND REQUESTS FOR PRODUCTION, AND
TO COMPEL PRODUCTION OF DOCUMENTS**

On March 31, 2010, Opposer Apple Inc. (“Opposer”) filed a Motion to Compel moving the Board for an order: (1) compelling Applicant Fabasoft AG (“Applicant”) to serve Initial Disclosures; (2) deeming the requests in Opposer’s First Requests for Admission admitted by Applicant based on Applicant’s complete failure to respond; (3) compelling Applicant to answer completely, and without objection, Opposer’s First Set of Interrogatories and First Request for Production of Documents; and (4) compelling Applicant to produce documents responsive to Opposer’s First Request for Production of Documents. *See* Docket Nos. 12, 13. As set forth in greater detail in Opposer’s Motion to Compel, Applicant has failed to comply with its discovery obligations or to respond to any of Opposer’s discovery requests. *Id.*

Rather than respond to Opposer's Motion to Compel, Applicant has again attempted to avoid its discovery obligations and filed a Motion to Suspend the proceedings pending disposition of unrelated German litigation. *See* Docket No. 13. As set forth in Opposer's Opposition to Applicant's Motion to Suspend, a suspension of the proceedings is not appropriate. *See* Docket No. 14. Moreover, Applicant has failed to respond to Opposer's Motion to Compel. Accordingly, Opposer's Motion to Compel should be granted without further delay.

Dated: April 21, 2010.

KILPATRICK STOCKTON LLP

By: /s/ Alicia Grahm Jones
Joseph Petersen
Alicia Grahm Jones
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Attorneys for Opposer Apple Inc.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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FABASOFT AG,	:	
	:	
Applicant.	:	
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing OPPOSER'S REPLY IN
SUPOPT OF ITS MOTION FOR AN ORDER DEEMING ITS REQUESTS FOR
ADMISSION ADMITTED, TO COMPEL RESPONSES TO ITS INTERROGATORIES
AND REQUESTS FOR PRODUCTION, AND TO COMPEL PRODUCTION OF
DOCUMENTS has been served on counsel for Fabasoft AG by depositing said copy with the
United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to:

Stewart J. Bellus
Collard & Roe, P.C.
1077 Northern Blvd
Roslyn, NY 11576-1614

Dated: April 21, 2010.

/s/ Alicia Grahm Jones _____
Alicia Grahm Jones
Attorney for Opposer Apple Inc.